

REMARKS/ARGUMENTS

The Examiner has delineated the following inventions as being patentably distinct.

Group I: Claims 1-6, drawn to aluminum alloy product, classified in class 148, subclass 415.

Group II: Claims 7-11, drawn to method of working and heat treating an aluminum alloy, classified in class 148, subclass 692.

Applicants provisionally elect, with traverse, the invention of Group I, Claims 1-6.

The claims of Groups I and II are integrally linked as product and method of making.

Restriction is only proper if the claims of the restricted Groups are independent or patentably distinct and there would be a serious burden placed on the Examiner if restriction is not required (M.P.E.P. §803). The burden of proof is on the Examiner to provide reasons and/or examples to support any conclusion in regard to patentable distinction.

There is a commonality that exists between Groups I and II. It is a technical relationship that involves the same features, and it is this technical feature that defines the contribution which each of the Groups taken as a whole makes over the prior art.

Claims to the necessary process for producing the claimed product of the process must be examined along with claims to the elected invention M.P.E.P. §809.

The Examiner simply alleges that the process claimed can be used to make other products or that the products can be made by another method. However, the Examiner has failed to supply any references or specific examples to support the allegation that the process can be used to make other products or that the products can be made by a different process. To simply allege a different product/process is not sufficient to suggest separate inventions, and the Office has failed to show that a burden exists in searching all of the claims. Different classifications of subject matter to be divided is not conclusive proof of independent status

and divisibility. Restriction is only proper if the claims of the restricted groups are not related.

Further, M.P.E.P. §803 states as follows:

If search and examination of an entire application can be made without a serious burden, the Examiner must examine it on its merits even though it includes claims to distinct inventions.

Applicants submit that a search of all the claims would not constitute a serious burden on the Office.

Further, Applicants reserve the right to file a divisional application on the non-elected subject matter, if so desired, and be accorded the benefit of the filing date of the parent application.

Applicants respectfully submit that the above-identified application is now in condition for examination on its merits, and an early notice of such action is earnestly solicited.

Respectfully submitted,

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